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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,339	01/16/2001	Minoru Miyatake	Q62691	2152

7590                    03/09/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER
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AKKAPEDDI, PRASAD R

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/759,339	MIYATAKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Prasad R Akkapeddi	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 December 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
  - 10) The drawing(s) filed on 16 January 2001 and 15 April 2003 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>02/19/2004</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/17/2003 has been entered.

***Drawings***

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 04/15/2003 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of "the optical element (3) on top of the optical element (4) as shown in Fig. 2". As can be seen in Fig. 1, these elements are reversed.

4. The drawings filed on 01/16/2001 and 04/15/2003 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948 (previously submitted). In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 6 -10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirasaki et al. (Shirasaki) (U.S.Patent No. 6,025,894) in view of Allen et al. (Allen) (U.S.Patent No. 6,111,696).

a. As to claim 1: Shirasaki discloses a polarized-light emitting organic electro-luminescent device (Fig. 35) comprising an organic electroluminescent element (114) and a light scattering film (120).

Shirasaki also discloses that the light produced by the organic electroluminescent element (114) being emitted from the device through the light scattering film (120).

b. As to the newly added limitation in claims 1-7: Due to the placement of the polarizers (134 and 135), Shirasaki's device will be a polarized-light emitting organic electroluminescent device (see col. 42, lines 35-53 for a discussion on polarized light from the device).

c. Shirasaki discloses separate polarizers and a separate light scattering film but does not disclose a polarizing light scattering film.

However, Allen discloses a polarizing light scatter plate which comprises a

light transmitting resin (Col. 5, lines 5-21) and dispersedly contained therein another resin and the range for the refractive indices in axis direction and perpendicular direction are less than 0.05 and greater than 0.05 respectively and overlaps the recited range of smaller than 0.03 and from 0.03 to 0.5.

Note that the range for the refractive indices in axis direction and perpendicular direction are less than 0.05 and greater than 0.05 as disclosed by Allen overlaps the range of smaller than 0.03 and from 0.03 to 0.5 (asserted in claim 1). Therefore, the range in claim 1 would have at least been obvious. See In re Malagari, 499 F.2d 197, 182 USPQ 549 (CCPA 1974).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Shirasaki's LCD device with the range for the refractive indices in axis direction and perpendicular direction are less than 0.05 and greater than 0.05 as disclosed by Allen overlaps the range of smaller than 0.03 and from 0.03 to 0.5 to achieve desirable degrees of diffuse and specular reflection and transmission, wherein the optical material is stable with respect to stress, strain, temperature differences, electric and magnetic fields and the optical material has low iridescence (col. 3, lines 28-37).

d. As to claims 2 and 6 -10: Shirasaki discloses that the scattering film (120) is superposed on the electrode substrate (110) (Fig. 35), the polarizing surface light source comprising the organic electroluminescent

device which has an illuminating planar surface and emits a polarized light (Fig. 35) and discloses a liquid-crystal display which comprises the polarizing surface light source (101) and a liquid-crystal cell (140) disposed on the light emission side of the light source (101).

e. Allen discloses birefringent polymer diffusion films (Col. 9, line 52-53) and the retardation is a function of index of refraction of the birefringent material and Fresnel lenses (col. 21, line 61).

f. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt the polarized-light scattering film disclosed by Allen to the organic electroluminescent device disclosed by Shirasaki to achieve desirable degrees of diffuse and specular reflection and transmission, wherein the optical material is stable with respect to stress, strain, temperature differences, electric and magnetic fields and the optical material has low iridescence (col. 3, lines 28-37).

7. Claims 3 -5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirasaki and Allen as applied to claim1 above, and further in view of Pokorny et al. (Pokorny) (U.S.Patent No. 6,461,775).

Allen discloses that the film is out of thermoplastic resin (Col. 14, line 32) having the differences in the indices of refraction ( $\Delta n$ ), but does not disclose the glass transition temperatures and phase separation of the film.

However, Pokorny discloses thermoplastic material having various glass transition temperatures preferably 50 degrees to 150 degrees or greater (Col. 8, lines 58-67) and the phase relationship (col. 8, lines 9-10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt the type of film disclosed by Pokorny to the display device of Sharsaki and Allen to provide an interlayer film to minimize damage and contamination and to reduce distortions (col. 8, lines 31-35).

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

9. In response to applicant's amendments and the corresponding arguments, the recitation 'A polarized-light emitting organic electro luminescent device', is cited in the prior art by Shirasaki which reads on this new limitation due to the inclusion of polarizers (134 and 135) in the Shirasaki device. Hence, due to the placement of these polarizers, Shirasaki's device will be a polarized-light emitting organic electro luminescent device.

In addition, it is respectfully pointed out that this limitation has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the

preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

***Response to Amendment***

10. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory

Art Unit: 2871

period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prasad R Akkapeddi whose telephone number is 571-272-2285. The examiner can normally be reached on 7:00AM to 5:30PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prasad R Akkapeddi, Ph.D  
Examiner  
Art Unit 2871

*PRA*  
\*\*\*

*Tarifur R. Chowdhury*  
TARIFUR R. CHOWDHURY  
PRIMARY EXAMINER

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/759,339	MIYATAKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Prasad R Akkapeddi	2871	

All participants (applicant, applicant's representative, PTO personnel):

(1) Dr. Prasad R Akkapeddi-Examiner. *PRR* (3) \_\_\_\_\_.

(2) Mr. John K. Shin-Applicant's Representative *JKS* (4) \_\_\_\_\_.

Date of Interview: 19 February 2004.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-10.

Identification of prior art discussed: Yes.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Briefly discussed the prior art and the amendments as submitted on 12/17/2003 will not overcome the previously cited prior art. The Examiner indicated that the response to the amendment is due soon.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

*P. R. Akkapeddi*  
\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

FROM : SUGHRUE-DC,

PHONE NO. : 202+293+7860

Feb. 12 2004 01:08PM P1



2100 Pennsylvania Avenue, NW  
Washington, DC 20037-3213  
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**FAX**

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Date	February 12, 2004		
To	Examiner AKKAPEDDI, Prasad R.		
Of	PTO Group Art Unit 2871		
Fax	571-273-2285		
From	John K. Shin		
Subject	<b>Applicant Initiated Interview Request Form</b>		
Our Ref	Q62691	Appln No	09/759,339
Conf No al.	2152	Inventors	Minoru MIYATAKE, et
Pages	<u>3 (including cover sheet)</u>		

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Please call attention to problems with this transmission by return fax or telephone. Thank you.

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This fax includes:

1. This cover sheet
2. Applicant Initiated Interview Request Form

**CERTIFICATION OF FACSIMILE TRANSMISSION**

Sir:

I hereby certify that the above identified correspondence is being facsimile transmitted to Examiner AKKAPEDDI, Prasad R. at the Patent and Trademark Office on February 12, 2004 at 571-273-2285.

Respectfully submitted,

John K. Shin

FROM : SUGHRUE-DC

PHONE NO. : 202+293+7860

Feb. 12 2004 01:08PM P2

FILING RECEIPT  
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of

Minoru MIYATAKE, et al.

Appln. No.: 09/759,339

Group Art Unit: 2871

Confirmation No.: 2152

Examiner: AKKAPEDDI, Prasad R.

Filed: January 16, 2001

For: ORGANIC ELECTROLUMINESCENT DEVICE, POLARIZING SURFACE LIGHT  
SOURCE, AND LIQUID-CRYSTAL DISPLAY

PAPER(S) FILED ENTITLED:

1. Applicant Initiated Interview Request Form

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

DOCKET NO.: Q62691  
ATTORNEY/SEC: JKS/jks  
Date Filed: February 12, 2004

WASHINGTON OFFICE  
**23373**  
CUSTOMER NUMBER

FROM : SUGHRUE-DC

PHONE NO. : 202+293+7860

Feb. 12 2004 01:08PM P3

MODIFIED PTOL-413A (05-03)

**Applicant Initiated Interview Request Form**Application No.: 09/759,339 First Named Applicant: MIYATAKE, MinoruExaminer: Akkapeddi Art Unit: 2871 Status of Application: After RCE**Tentative Participants:**

- (1) John K. Shin, Esq. (2) \_\_\_\_\_  
 (3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: Feb. 19, 2004 Proposed Time: 10 am (AM/PM)Type of Interview Requested: (1)  Telephonic (2)  Personal (3)  Video ConferenceExhibit to Be Shown or Demonstrated:  Yes  No

If yes, provide brief description: \_\_\_\_\_

**Issues To Be Discussed**

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art As referenced	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>1-10</u>	<u>As referenced</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

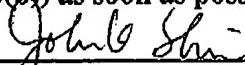
 Continuation Sheet Attached**Brief Description of Arguments to be Presented:**Present invention achieving a polarized-light emitting light EL device is novel and unobvious over the prior art references.  
\_\_\_\_\_  
\_\_\_\_\_

An interview was conducted on the above-identified application on \_\_\_\_\_

**NOTE:**

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

(Applicant/Applicant's Representative Signature)  
SUGHRUE MIKELL, PLLC

(Examiner/SPE Signature)

WASHINGTON OFFICE

23373

CUSTOMER NUMBER